



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [B.A.] NO. 1410 OF 2025

Avinash @ Dadu S/o Vinod Randhir

-- VERSUS --

State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. N.G. Tikar, Advocate for the Applicant.

Ms. M.H. Deshmukh, A.P.P. for the Non-applicant/State.

CORAM : M.M. NERLIKAR, J.

DATE : JANUARY 20, 2026.

Heard.

2. The present application is filed seeking regular bail in Crime No.610/2022 for the offence punishable under Sections 302 and 34 of Indian Penal Code, 1860, read with Sections 4 and 25 of Arms Act, 1959, registered with Police Station Badnera, District Amravati.

3. The informant who is the mother of the deceased has lodged report alleging that on 26/07/2022 at about 01:30 p.m., informant accompanied with deceased went to the bus stand. Upon reaching in front of bus stand, present applicant along with other co-accused person came to the spot. The present applicant attacked the deceased with knife over the head and on her cheek.

Thereafter, they ran away. The victim was taken to the hospital, however, she was declared dead.

4. The applicant has pressed into service the ground of delay for grant of bail as the applicant was arrested on 26/07/2022. The learned counsel appearing for the applicant submits that there is no progress in the trial and almost more than three and half years has passed still the applicant is behind bar. He further submits that if stringent conditions are put while releasing the applicant on bail, the applicant would abide by that. He further submits that trial is likely to take time as evidence is yet not started or commenced, and therefore, submits that the present applicant be enlarged on bail.

5. On the other hand, the learned A.P.P. vehemently opposes the application on the ground that the applicant is a habitual offender and there are near about 11 offences registered against him. She further submits that serious offence under Section 307 IPC are registered in the year 2019 and 2020. His criminal chart is going in ascending manner, and therefore, he may not be enlarged solely on the ground of delay.

6. The Supreme Court in the cases below has held as under:-

(i) Javed Gulam Nabi Shaikh VS State of Maharashtra and Another, (2024) 9 SCC 813;

(ii) Sheikh Javed Iqbal VS State of Uttar Pradesh, (2024) 8 SCC 293;

In *Javed Gulam Nabi Shaikh (supra)*, it is held in para 17 as under:-

“17. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”

In *Sheikh Javed Iqbal (supra)*, it is held in Paragraph No.32 as under:-

“32. This Court has, time and again, emphasized that right to life and personal liberty enshrined Under Article 21 of the Constitution of India is overarching and sacrosanct. A constitutional court cannot be restrained from granting bail to an Accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the Accused-undertrial Under Article 21 of the Constitution of India has been infringed. In that event, such statutory restrictions would not come in the way. Even in the case of interpretation of a penal statute, howsoever stringent it may be, a constitutional court has to lean in favour of constitutionalism and the Rule of law of which liberty is an intrinsic part. In the given facts of a particular case, a constitutional court may decline to grant bail. But It would be

very wrong to say that under a particular statute, bail cannot be granted. It would run counter to the very grain of our constitutional jurisprudence. In any view of the matter, K.A. Najeeb (supra) being rendered by a three Judge Bench is binding on a Bench of two Judges like us."

7. Upon consideration of the rival submission, this Court by order dated 19/12/2025 has called status report, wherein it is stated that the charge was framed and the matter is kept for evidence, however, there are no further details in the said progress report. Considering the fact that though the charges are framed and the matter is kept for evidence, one does not know when the trial will conclude. As could be gathered from the charge-sheet that 17 witnesses are cited in the charge-sheet, till today, no one is examined. Considering the above facts and circumstances, I am of the considered opinion that the present applicant can be granted bail on the basis of delay in trial by imposing certain stringent condition. Hence, the following order:-

ORDER

(i) The Criminal Application is **allowed;**

(ii) The applicant/accused (Avinash @ Dadu S/o Vinod Randhir) be released on regular bail in connection with in Crime

No.610/2022 for the offence punishable under Sections 302 and 34 of Indian Penal Code, 1860, read with Sections 4 and 25 of Arms Act, 1959, registered with Police Station Badnera, District Amravati, on his furnishing a P.R. bond of Rs.50,000/- (Rupees Fifty Thousand) with two solvent sureties in the like amount;

(iii) The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence;

(iv) The accused shall provide his residential address and cell number to Police Station concerned and shall not change his place of residence without prior intimation to the Investigating Agency;

(v) The accused shall attend each and every date of trial regularly. If he fails to attend the trial for two consecutive dates, or fails to comply with the aforesaid conditions, his default would entail the State to ask for cancellation of bail before this Court;

(vi) The applicant shall not commit any offence and, in case, any offence is committed, the State/prosecution is at liberty to

file application before this Court for cancellation of bail;

(vii) Pending Misc. Applications, if any, also stands disposed of.

PIYUSH MAHAJAN

[M.M. NERLIKAR, J]